

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

FILED
U.S. DISTRICT COURT

United States District Court		District <u>SOUTHERN DISTRICT OF GEORGIA</u>
Name (under which you were convicted): <u>GHAIEB ALAUMARY</u>		Docket or Case No.: <u>20 - CR - 00027</u>
Place of Confinement: <u>FORT DIX P.O. Box 2000 JOINTBASE MDL NJ 08640</u>		Prisoner No.: <u>72802-019</u>
UNITED STATES OF AMERICA		Movant (include name under which you were convicted) <u>v. GHAIEB ALAUMARY</u>

MOTION

CV 422 216

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

124 BARNARD ST, SAVANNAH, GA 31401

(b) Criminal docket or case number (if you know): 20 - CR - 00027

2. (a) Date of the judgment of conviction (if you know): 4-21-2020

(b) Date of sentencing: 9-14-2021

3. Length of sentence: 140 MONTHS IMPRISONMENT 3 YEAR'S SUPERVISION
4. Nature of crime (all counts): ONE COUNT CONSPIRACY TO COMMIT MONEY LAUNDERING

5. (a) What was your plea? (Check one)

(1) Not guilty ☐

(2) Guilty ☒

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? COUNT ONE

CONSPIRACY to COMMIT MONEY LAUNDERING

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☐

Judge only ☐

N/A

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☒
8. Did you appeal from the judgment of conviction? Yes ☐ No ☒
9. If you did appeal, answer the following:
- (a) Name of court:
- (b) Docket or case number (if you know):
- (c) Result:
- (d) Date of result (if you know):
- (e) Citation to the case (if you know):
- (f) Grounds raised:

N/A

- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

- (1) Docket or case number (if you know):
- (2) Result:
- (3) Date of result (if you know):
- (4) Citation to the case (if you know):
- (5) Grounds raised:

N/A

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):

N/A

(4) Nature of the proceeding:

(5) Grounds raised:

N/A

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(7) Result:

N/A

(8) Date of result (if you know):

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

N/A

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☒

(7) Result:

(8) Date of result (if you know):

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☒

(2) Second petition: Yes ☐ No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: ADVISED BY MY ATTORNEY I HAD NO APPEAL RIGHTS BECAUSE I PLEAD GUILTY

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: DEFENDANT WAS DENIED MY SIXTH AMENDMENT RIGHT TO AN ATTORNEY

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

DEFENDANT'S TRIAL ATTORNEY FAILED TO INVESTIGATE ANY DEFENSE OR EVIDENCE, CONCERNING THE GOVERNMENT'S LACK OF ANY FILING OF A FORMAL COMPLAINT, OR THERE LACK OF FORMALLY SHOWING ANY ASSOCIATED CASES OR DEFENDANT'S CONCERNING THIS DEFENDANT'S CONSPIRACY ALLEGATIONS

(b) **Direct Appeal of Ground One:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

- (2) If you did not raise this issue in your direct appeal, explain why: WAS ADVISED BY COUNSEL I COULD NOT APPEAL

(c) **Post-Conviction Proceedings:**

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

- (2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

N/A

Name and location of the court where the motion or petition was filed:

N/A

Docket or case number (if you know):

N/A

Date of the court's decision:

N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

N/A

(6) If your answer to Question (c)(4) is "Yes," state:

N/A

Name and location of the court where the appeal was filed:

N/A

Docket or case number (if you know):

N/A

Date of the court's decision:

N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or

raise this issue: ADVISED BY COUNSEL I HAD NO APPEAL RIGHTS OR ISSUES

GROUND TWO: INEFFECTIVENESS OF COUNSEL, FOR TRIAL COUNSEL FAILURE TO PROTECT DEFENDANT'S PROCEDURAL DUE PROCESS RIGHTS

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

DEFENSE COUNSEL, FAILED TO PROPERLY INVESTIGATE THE GOVERNMENT'S PROCEDURAL PROCESS UTILIZED WHILE INITIATE THE CRIMINAL PROSECUTION OF THIS CASE, AND FAILED TO CHALLENGE THE GOVERNMENT'S PRESENTMENT OF ANY AND ALL EVIDENCE,

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

ADVISE BY COUNSEL, DEFENDANT COULD NOT APPEAL

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state: N/A

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion, petition, or application? N/A

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application? N/A

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? N/A

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state: N/A

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: ADVISED BY COUNSEL

GROUND THREE: INEFFECTIVE ASSISTANCE OF COUNSEL, FAILURE OF COUNSEL TO MOVE TO QUASH THE INFORMATION

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

TRIAL COUNSEL FAILED TO PRESENT TO THE COURT, FACT'S THAT THE CRIMINAL INFORMATION FAILED AGAINST THIS DEFENDANT, FAILED TO CONSTITUTE AN OFFENSE UNDER THE CONSPIRACY STATUTE, ON THE GROUNDS IT DOES NOT CONTAIN THE ELEMENT OF TWO OR MORE PEOPLE WILLFULLY CONSPIRED TO COMMIT A PROHIBIT ACT AGAINST THE UNITED STATES OF AMERICA

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: ADVISED BY COUNSEL DEFENDANT COULD NOT APPEAL

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state: N/A

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): *N/A*

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? *N/A*

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state: *N/A*

Name and location of the court where the appeal was filed: *N/A*

Docket or case number (if you know): *N/A*

Date of the court's decision: *N/A*

Result (attach a copy of the court's opinion or order, if available): *N/A*

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: *N/A*

GROUND FOUR: INEFFECTIVE ASSISTANCE OF COUNSEL, FAILURE OF COUNSEL TO UPHOLD DEFENDANT'S APPEAL RIGHTS

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

DEFENSE COUNSEL FAILED TO ~~BE~~ FILE A NOTICE OF APPEAL, OR DISCUSS WITH THIS DEFENDANT ANY APPEAL ISSUES WHICH MIGHT HAVE BEEN PRESENTED, IN VIOLATION OF DEFENDANT'S FIFTH AMENDMENT RIGHT TO DUE-PROCESS OF LAW,

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒(2) If you did not raise this issue in your direct appeal, explain why: **DID NOT APPEAL****(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒(2) If your answer to Question (c)(1) is "Yes," state: **N/A**Type of motion or petition: **N/A**Name and location of the court where the motion or petition was filed: **N/A**Docket or case number (if you know): **N/A**Date of the court's decision: **N/A**Result (attach a copy of the court's opinion or order, if available): **N/A**

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: **N/A**Docket or case number (if you know): **N/A**Date of the court's decision: **N/A**Result (attach a copy of the court's opinion or order, if available): **N/A**

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: ADVISED BY COUNSEL, I HAD NO RIGHTS TO APPEAL OR NO VIOLATE ISSUES

13. Is there any ground in this motion that you have not previously presented in some federal court?

If so, which ground or grounds have not been presented, and state your reasons for not presenting them: N/A

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. N/A

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing:

(b) At arraignment and plea: JUSTIN G DAVID'S 22 BARNARD ST SAVANNAH GA 31401
STEVEN P. BERNE 1441 DUNWOODY VILLAGE PARKWAY ATLANTA, GA 30338

(c) At trial:

(d) At sentencing: STEVEN M. FREY 21 LEE STREET JONESBORO, GA 30236

(e) On appeal: *N/A*

(f) In any post-conviction proceeding: *SAME*

(g) On appeal from any ruling against you in a post-conviction proceeding: *SAME*

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: *N/A*

(b) Give the date the other sentence was imposed: *N/A*

(c) Give the length of the other sentence: *N/A*

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☒ No ☐

18. **TIMELINESS OF MOTION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.* *THIS MOTION IS SENT OUT TIMELY*

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: VACATE THE SENTENCE AND JUDGMENT IN THE INTEREST OF JUSTICE

or any other relief to which movant may be entitled.

Ghaleb Laumary
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on
(month, date, year).

Executed (signed) on 9-8-2022 (date).

Ghaleb Laumary
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

SHAIED ALAUMARY # 72802-019
C.I. FORT DIX
P.O. Box 2000
JINTBASE MDL NJ 08640

TO CLERK OF COURT
FEDERAL COURTHOUSE ANNEX
124 BARNARD ST, SAVANNAH
GA 31401

